INFORMATION LETTER

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Sweetening of Fruit Juices

The Food and Drug Administration in a letter from W. G. Campbell, Chief of the Administration, has given an interpretation of its notice of February 27, 1936, with respect to the use of syrup and sugar in the canning of fruit juices. The letter from Mr. Campbell, dated March 26th, states:

"I have your letter of March 18th asking for further interpretation of our announcement of February 27, 1936, concerning the sweetening of fruit juices.

"It was the purpose of that announcement to indicate July 1, 1936, as the date upon which regulatory action would be inaugurated on fruit juices which are not in conformity with the announcement, and which were packed after receipt of the announcement by the industry—that is, during the early part of March, 1936, and subsequently. Action on sugar-sirup products put up before receipt of the announcement by the trade, if in accordance with previous rulings, is not contemplated."

The original notice of the Food and Drug Administration, as published in the INFORMATION LETTER for March 7th, was as follows:

"This notice applies to fruit juices as distinguished from fruit syrups, fruit type beverages, and the like. The necessity for maintaining the identity of such basic food products as fruit juices needs no elaboration.

"Some manufacturers have been adding sugar in the form of sugar solutions of varying strength, labeling the product, for example, 'Orange juice,' with a subsidiary label statement of the added ingredient, almost invariably in smaller type and removed some distance from the name of the product. It has become apparent that the consumer who buys fruit juice does not realize the dilution with water that thereby occurs, which sometimes amounts to 25 per cent.

"There appears to be no practical reason why the sweetening of fruit juices, if desired, should not be accomplished by the use of dry sugar alone; consequently the dilution of fruit juices with water, even in the form of sugar solutions, is held to be in violation of the Food and Drugs Act.

"Conformity with the provisions of the Food and Drugs Act requires that basic product names, such as 'Orange juice,' 'Grape juice,' and the like, be directly and conspicuously qualified, when dry sugar has been added. To be properly informing the labeling of such products should indicate the quantity of added sugar, for example, 'Sweetened Orange Juice, 2 per cent Sugar Added.'

"The effective date of this notice is July 1, 1936."

Handling of Canned Foods Exposed to Flood

Interest in the handling of canned foods which have been affected by flood conditions has been evidenced by inquiries from members of the National Canners Association and agencies concerned in flood relief. In view of this the following letter has been sent to interested groups including boards of health, food bureaus, and other agencies concerned directly or indirectly with rehabilitation of flood-stricken states:

"Several inquiries have been received regarding the effect of flood waters on stocks of canned foods and suggestions have been requested for the handling of such lots as may have been submerged. In regard to such inquiries, the following suggestions may be helpful.

"Canned foods are sterilized in hermetically sealed impervious containers and consequently cannot be contaminated by exposure to water. Any contamination from exposure to flood waters would therefore be restricted to the outside of the can.

"Under such circumstances the following treatment for stocks of canned foods which may have been in actual contact with flood waters is believed to be adequate to make the cans suitable for use:

"(1) Remove labels and wash cans in warm, soapy water.

"(2) Follow the cleansing treatment by immersion in a chlorine solution or other sterilizing solution approved by a Board of Health. Phenol, cresol or other coal tar disinfectants are unsuitable since the odor imparted by such solutions is objectionable and persistent.

"(3) Rinse the cans in fresh water and dry thoroughly to prevent rust.

"(4) Repack in dry cases and store in a dry place as is usual.

"If chlorine is used for a disinfectant, a solution having an alkaline reaction is recommended since such a solution tends to prevent rusting of the cans. If a solution of this type is used there is no need to rinse the cans in fresh water, but they should be dried promptly.

"Advice regarding the strength of the sterilizing solution should be obtained from the local Board of Health or other agency concerned in the flood rehabilitation.

"The cans may be relabeled as soon as they are thoroughly dry."

Tax Clause for Sales Contracts

Member canners having requested that they be furnished with a clause to be inserted in their sales contracts to protect them against losses that might be incurred through imposition of sales taxes or increases of costs through other legislation or regulation, the Association gives below the text of a clause which has been approved by the Association's legal counsel and which canners may, if they so desire, incorporate in their sales contracts:

"In addition to the prices stated herein, buyer agrees to pay or reimburse seller for any sales tax or other taxes which are or which may be imposed by the Federal or State Governments and for any increase in the cost of the merchandise herein mentioned occasioned by Federal legislation or regulation, or in lieu thereof the prices herein stated may be increased to the extent of such tax or increased cost."

Recent Developments in the Social Security Field

In the INFORMATION LETTER of February 8th the attention of canners was directed to two suits filed in the New York courts questioning the constitutionality of the New York unemployment compensation law. These two cases were tried in different counties and the judges reached different conclusions, one holding the law valid and the other ruling that it was unconstitutional. Appeals were taken and on March 19th the cases were argued together before the Court of Appeals of New York. An early decision of that tribunal is expected.

State Legislation

The legislatures of Indiana and Mississippi have recently enacted unemployment compensation laws, bringing to a total of twelve the number of states which now have such statutes in force. (For an enumeration of the other states see the Association pamphlet, Part II, page 8.)

The Indiana law applies to all employers of eight or more persons on each of twenty different days, each day being in a different calendar week. Employer contributions begin on April 1, 1936, and are at the rate of 1.2 per cent for the remainder of the year 1936, 1.8 per cent during 1937, and 2.7 per cent during 1938 and the first quarter of 1939. Thereafter the rate varies from zero to 3.7 per cent, depending upon the state of the employer's reserve account. Employee contributions begin in 1937, and will be 50 per cent of the contributions made by the employer, but in no case shall the employee's contribution exceed 1 per cent of his wages. The Act provides for a combination of reserve accounts and a pooled fund.

The Mississippi Act becomes effective April 1, 1936, and likewise applies to each employer of eight or more persons. The rate of contribution is 1.2 per cent during the nine months of 1936 beginning April 1st. If, however, this 1.2 per cent contribution is less than nine-tenths of one per cent of the employer's annual payroll for 1936, an added tax equal to this difference is imposed. The contribution rate for the year 1937 is 1.8 per cent and for 1938, 2.7 per cent. No employee contributions are required under this law. The law provides for a pooled fund, but a separate record of each employee's account is to be maintained.

Proposed Revision of California Regulations

In its Bulletin No. 8, issued March 18, 1936, the California Unemployment Reserves Commission announced that a revision of the California regulations was planned. The purpose of the proposed change is to make the regulations conform to the Federal Regulations No. 90 recently issued by the Bureau of Internal Revenue. This is necessary in order that the full credit of 90 per cent against the Federal tax may be obtained by California employers.

Food Guaranty Question Comes Up Again

Members of the Association continue to inquire regarding the form of food guaranty to be given by canners, and those who maintain files of the INFORMATION LETTER will find in the issue for November 2, 1935, a rather complete statement reciting the action taken in 1931 and subsequent years. Briefly stated, the Conference Committee of Canners and Distributors, at a meeting in July, 1931, failed to agree upon a revised form of guaranty. Subsequently, the plan for extension of the National Canners Association's services in the investigation and defense of consumer complaints and for protection in case of unusually large judgments or settlements was approved by the Conference Committee at a meeting in January, 1932, and put into effect by the Administrative Council on April 1, 1932. In view of this action, the National Canners Association advised its members, when requested to sign a revised form of guaranty, that they could properly reply to such a request by citing the action of the Conference Committee.

The form of guaranty which was approved by the Canners' Conference Committee and submitted to the joint committee on July 7, 1931, was as follows:

The undersigned seller guarantees that all articles of food sold by seller to ..... purchaser shall not be adulterated or misbranded within the meaning of the pure food laws of the state to which shipment is made and within the meaning of the Federal Food and Drugs Act of June 30, 1906, and amendments thereto; provided, however, that the seller does not guarantee against such goods becoming adulterated or misbranded within the meaning of said laws or of said Act, as amended, after sale and delivery by reason of causes beyond seller's control; and provided that special guaranty against swells and spoils, with time limit for claims or allowance in lieu of guaranty for swells and spoils, shall govern if included in sales contract.

Senate Increases Agricultural Department Appropriation

The appropriation bill for the Department of Agriculture as passed by the Senate on March 24th provides funds for the Food and Drug Administration and the Bureau of Plant Industry previously denied by the House in its consideration of the bill.

For enforcement of the Food and Drugs Act the appropriation is increased by $524,620, and for payment of seafood inspectors $80,000 is appropriated. The Bureau of Plant Industry is given $25,000 for work on breeding hardy disease-resistant peaches, apples, pears and grapes, and $30,000 for work on tomato plant diseases. The item last mentioned is the fund referred to in the INFORMATION LETTER for March 14th, in which was reproduced a memorandum filed with the Senate subcommittee by the Association's Raw Products Research Bureau.

The bill now goes to conference, and whether the above-mentioned increases are finally approved will depend upon the action taken by the conferees.

What's Doing in Congress

The week saw further progress made on the appropriation bills, the Senate passing both the War Department and Agricultural measures. Only the tax and relief bills stand in the way of an early adjournment, but some of the leaders still seem to think that only good luck will get them over those two obstacles in the very near future.

Price-Discrimination Bills

The outstanding development of the week so far as the price-discrimination bills are concerned was the decision of the House Judiciary Committee, by a close vote, to report

favorably a revised Patman-Utterback Bill, carrying the number of the original Patman Bill, H. R. 8442. This move increases the likelihood of price-discrimination legislation at this session, as the House is generally thought to favor the idea. The big obstacle is the necessity of getting a rule from the Rules Committee that will bring up the bill before adjournment.

Although not of greatest importance to the canning industry, the new feature of the revised bill that is causing the greatest comment is the "price" paragraph that in effect would wipe out the present basing-point system used in such industries as steel, cement, sugar, and flour. This came as a real surprise to the representatives of such industries who have been spending weeks before the Senate Interstate Commerce Committee in opposition to the Wheeler Anti-Basing-Point Bill (S. 4055). Although it is impossible to tell much in advance, it is considered possible that the opposition to this paragraph may delay bringing the revised bill to a vote in the House. The "price" provision reads as follows:

"That the word 'price,' as used in this section 2, shall be construed to mean the amount received by the vendor after deducting actual freight or cost of other transportation, if any, allowed or defrayed by the vendor."

The final draft of the revised bill differs in some interesting respects from the subcommittee draft, which was commented on in the INFORMATION LETTER for March 21st. A liberalization of the prohibition against brokerage to buyers is seen in the following paragraph in which the italicized clause is new:

"That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, *except for services rendered in connection with the sale or purchase of goods, wares, or merchandise,* either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid."

Another important modification has to do with the seller's ability to change prices as market conditions change. In the paragraph quoted next, the italicized phrase was added to the subcommittee draft to make clear that other conditions than those mentioned might be considered as affecting prices:

"That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as *but not limited to* actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned."

In the Senate, the Robinson Bill is still on the Calendar, but was discussed during hearings held March 24th and 25th by the Logan subcommittee of the Senate Judiciary on the Borah-Van Nuys Bill (S. 4171), after efforts to have the Robinson Bill recommitted for hearings had failed. At this hearing representatives of the chain stores, mail-order houses, and others opposed to the Robinson Bill stated that the Borah-Van Nuys Bill would be generally acceptable to them as a substitute for the Robinson Bill. It will be surprising to most observers if the Committee recommends the substitution of the new bill for the Robinson Bill, but as it will probably be offered on the floor as a substitute by one of the two sponsors, and as it differs radically from the other bills that have been discussed in the INFORMATION LETTER, it is printed below for the benefit of those who are following in detail the progress of this legislation. As will be seen in the last paragraph it makes discrimination a criminal rather than a civil matter. It was said at the hearings that it is patterned after the Canadian law of 1935, which is now before the courts for review as to its constitutionality. The bill follows:

"It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

"Nothing in this section shall prevent a cooperative association from returning to producers or consumers, or a cooperative wholesale association from returning to its constituent retail members, the whole, or any part of, the net surplus resulting from its trading operationg in proportion to purchases from, or sales to, the association.

"Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than $5,000 or imprisoned not more than one year, or both."

Tax Bill

There has been much confusion during the week as to the prospects of including excise taxes in the tax bill to replace the old processing taxes. One day it was officially announced that the subcommittee of the Ways and Means Committee had decided to put in all the excise taxes suggested by Agriculture and Treasury, and the next day it was officially announced that no such taxes would be included in the subcommittee's draft. As the INFORMATION LETTER goes to press they are still out, but there is no way of telling whether any or all of them will stay out. It will be a convenience at least to have them out during the hearings, which may be started during the week of March 30th.

Long-and-Short-Haul Bill

The House by a substantial majority passed the Pettengill Bill (H. R. 3263) amending Section 4 of the Interstate Commerce Act to make it possible for railways to charge less for a long haul than for a short haul. The chief purpose of the bill as stated in the debate is to permit railways to compete with water-borne commerce, especially that moving from coast to coast through the Panama Canal. The bill was endorsed by the railroads, rail workers, and national shippers and opposed by interests in the Mountain states and the Northwest, as well as by steamship companies and seamen's unions. It now goes to the Senate, where its fate is uncertain.

Status of Other Bills

COPELAND BILL.—There is a growing belief that the House Interstate and Foreign Commerce Committee will be doing something one of these days about the bill to amend the Food and Drugs Act, and on the other hand there seems to be a basis for believing that it has been listed as one of the bills to go overboard as soon as the tax bill is out of the way and adjournment is possible.

BASING-POINT BILL.—Hearings are still going on before the Senate Interstate Commerce Committee. Prof. Sprague of Harvard, formerly of the Treasury, is to appear on March 27th.

WATER-POLLUTION BILL.—Hearings on the Lonergan Bill (S. 3958) were resumed before Mrs. Caraway's subcommittee of the Senate Commerce Committee.

30-HOUR BILLS.—The Black and Connery Bills are admitted to be dead now, although still on the House and Senate calendars.

Federal Unemployment Compensation Tax Regulations

In last week's INFORMATION LETTER was begun a discussion of the tax regulations relating to the excise tax on employers under Title IX of the Social Security Act. The present article continues this discussion and covers employment as defined in the Act.

"Employment" Within the Meaning of the Act

Under the Federal Social Security Act "employment" is defined as "any service, of whatever nature, performed within the United States by an employee for his employer, except" (the excepted employments are enumerated and discussed below).

This definition is of importance in two connections. (1) In determining whether the requisite eight or more persons are employed so that the employer is subject to the Act. In counting the individuals employed, only those performing services in an "employment" as defined above are counted. (2) In computing the payroll which is subject to the tax only the wages payable with respect to an "employment" as so defined are included in the computation.

Services are performed within the United States if they are performed within any of the several States, the District of Columbia or the territories of Alaska and Hawaii. Thus, if a person performs services outside of the United States he is not in an "employment" within the meaning of the Act, and to that extent he will not be counted for the purpose of determining whether the person who employs him is an "employer," and remuneration payable with respect to such services will not be included in computing the payroll subject to the tax.

The place where the contract for the services is entered into and the citizenship or residence of the employee or of the person who employs him are immaterial.

Excepted Employments

Under the terms of the Act certain services, even though performed within the United States, are excepted from the definition of "employment." To the extent that an employee performs an excepted service he is not counted in determining the status of the employer, and his wages are not included in computing the payroll subject to tax. It should be noted, however, that this exception attaches only to the services performed by the employee and not to the employee as an individual; and the exception applies only for the period during which the individual is rendering services in an excepted class. This may best be illustrated by quoting the example which is given in the Regulations:

"Example: A, who operates a farm and also a grocery store, employs B for $10 a week. B works on the farm five days of the week and works for one day of the week as a clerk in the grocery store. If the services which B performs on the farm constitute 'agricultural labor' (see article 206(1)), such services are excepted by the Act; the services performed as a clerk in the grocery store, however, are not excepted. Therefore, the time during which B works on the farm is not considered in determining whether A is an 'employer,' but the time during which B is working in the grocery store is so considered. Also, if A is an 'employer,' in computing the amount of wages payable, the part of the weekly salary of $10 which is attributable to the work on the farm is disregarded, while the amount which is attributable to the work performed in the grocery store is included."

The services excepted by the Act are as follows:

AGRICULTURAL LABOR (ART. 206(1)). The definition of agricultural labor contained in the Federal Regulations confines the application of this section within rather well-defined limits. It includes only those services performed—

"(a) By an employee, on a farm, in connection with the cultivation of the soil, the harvesting of crops, or the raising, feeding, or management of live stock, bees, and poultry; or

"(b) By an employee in connection with the processing of articles from materials which were produced on a farm; also the packing, packaging, transportation, or marketing of those materials or articles. Such services do not constitute 'agricultural labor,' however, unless they are performed by an employee of the owner or tenant of the farm on which the materials in their raw or natural state were produced, and unless such processing, packing, packaging, transportation, or marketing is carried on as an incident to ordinary farming operations as distinguished from manufacturing or commercial operations.

"As used herein the term 'farm' embraces the farm in the ordinary sense, and includes stock, dairy, poultry, fruit, and truck farms, plantations, ranches, ranges, and orchards.

"Forestry and lumbering are not included within the exception."

Thus the services included within this exception are limited to those actually performed in connection with the producing of farm products (farm products including live stock, bees, poultry, etc.). Services performed in connection with the processing, packing, transportation, and marketing of these farm products come within the exception only when such services are performed by an employee of the owner or tenant of the farm, and when they are only incidental to ordinary farming operations as distinguished from manufacturing or commercial operations.

The definition adopted under the California Act is somewhat broader than this and would include in the exception employees not excepted under the Federal law. (For California definition, see the Association's pamphlet, Part III,

Section 4, page 10 and the INFORMATION LETTER of February 15, 1936 at page 4853.) As a result, the California Act would not apply to certain employees who are covered by the Federal Act. No credit against the Federal tax could be taken as to these employees and the State fund would thus lose the benefit of this portion of the tax. For this reason a revision of the California rules may be expected. In Commission Bulletin, No. 8, issued March 18th, the California Unemployment Reserves Commission announced that such a revision would probably be made.

DOMESTIC SERVICE (ART. 206(2)). Under the Federal Act "domestic service in a private home" is excepted from the definition of "employment." In general, this includes services rendered by cooks, maids, butlers, valets, laundresses, furnacemen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use, when rendered in or about a private home as distinguished from boarding houses, clubs and the like.

CREWS OF VESSELS (ART. 206(3)). Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States is also excepted from the definition of employment. Under the Federal Regulations the word "vessel" includes every description of watercraft or other contrivance, used as a means of transportation on water, but does not include any type of aircraft.

The expression "officers and members of the crew" includes the master or officer in charge of the vessel, however designated, and every individual subject to his authority serving on board and contributing in any way to the operation and welfare of the vessel.

This definition differs in phraseology from that adopted by the California Commission (discussed in INFORMATION LETTER of February 29, 1936, at page 4863) but the scope of each is substantially the same.

"Navigable waters of the United States" means such waters as are navigable in fact and which by themselves or their connection with other waters form a continuous channel for commerce with foreign countries or among the States.

FAMILY EMPLOYMENT (ART. 206(4)). Under the Act certain services are exempted because of the existence of a family relationship between the employer and employee. Thus services performed by a husband or wife, father or mother, or son or daughter under the age of 21, are not within the Act. (This exception is discussed in the Association's pamphlet, Part I, Section 1, page 5.) It should be noted that the exemption applies only when the services are performed for an individual as distinguished from a corporation, partnership or other entity.

GOVERNMENT EMPLOYEES (ART. 206(5)-(6)). All services performed for the Federal or a State government or an instrumentality or agency of such government are excepted.

CHARITABLE, ETC. ORGANIZATIONS (ART. 206(7)). Service performed in the employ of a religious, charitable, scientific, literary, or educational organization, or a community chest is also excepted from the operation of the Act.

Complaint Issued Against Tin Plate Manufacturers

Fifteen companies engaged in the manufacture of tin plate are charged with violation of the Federal Trade Commission Act, in a complaint issued March 20th by that Commission. The complaint alleges that the companies entered into an agreement under which they have refused to sell a certain grade of their product, known as "stock plate," to jobbers of tin plate and small manufacturers of tin cans and other metal containers. Thereby, the complaint charges, the respondents have arbitrarily and unduly enhanced the prices which jobbers and manufacturers must pay for a higher grade of plate sold by the same respondent companies.

The complaint also alleges that the respondents' practices tend to lessen and suppress competition in the sale of tin plate, and to create a monopoly in the manufacture of tin containers on the part of the two larger can companies, which together are said to consume approximately 65 per cent of the production of tin plate.

The Commission fixed April 17th as the final date for the respondents to show cause why an order to cease and desist from the practices complained of should not be issued against them.

Use of Graphite Necessary in Treating Pea Seed with Copper Oxide

Experiments at the New York State Agricultural Experiment Station, Geneva, N. Y., referred to in last week's INFORMATION LETTER, show that when seed peas are treated with red copper oxide it is necessary to use graphite to prevent clogging of drills.

The following practical aspects of graphite treatment are noted in Bulletin No. 660 of the New York Agricultural Experiment Station:

"1. Pea seed, especially the canning variety Surprise, may be treated with bright red, dusty red copper oxide at the rate of ¼ of 1 per cent by weight, or 2½ ounces per bushel, to prevent seed decay. Until further research now under way is completed, only this variety should be treated on a commercial scale. Where facts on other varieties are available locally this statement may be varied.

"2. Thorough mixing is important for best results with red copper oxide. The mixer should be dust-tight, filled not more than half full of seed, provided with baffles, and turned at least 200 revolutions, preferably 500 revolutions. The tumble barrel with an extra baffle or two is probably the best type of treater, followed by the rolling barrel with two or four baffles. Concrete mixers are to be considered third choices. If any concrete remains in the mixer, it will roughen the seed coat unduly and raise the friction independently of treatment.

"3. Operators of treating machinery should be provided with adequate and comfortable dust masks because the chemical may be nauseating if inhaled in large quantities. Also treating should be done on open platforms, not in closed warehouses.

"4. The treatment will reduce seeding rate materially, sometimes as much as 30 per cent, and this may be reflected in the field stand. Sometimes this difference in seeding rate has been so great that the stand of peas from treated seed is smaller than that from untreated seed. As long as this fact is known and compensated for, however, it would be of no further significance if the seed is drilled with a garden seeder, a plate corn planter, or a fluted wheel feed grain drill. But if the seed is to be drilled with a double-run internal force feed grain drill, the seed may clog the machine and cause it to break.

"5. The reduction in seeding rate and tendency to break drills is aggravated by storing seeds in the barn during rain periods. The dryer the air in storage, the less likelihood of trouble.

"6. If treated peas are to be sown with grain drills, they must be graphited or trouble may ensue. This is necessary because the chemical increases the friction between seeds to such an extent that present drills will not stand the strain. The ordinary large-flake graphite from the hardware store must not be used as it will not reduce the friction below the danger point.

"7. Apparently any flake graphite pulverized so that 90 per cent or more will pass through a 325-mesh screen will lubricate pea seeds sufficiently so that they will flow smoothly through a drill. This experimental work was done with graphite supplied by Joseph Dixon Crucible Co., Jersey City, N. J. The grades used were No. 0607, No. 6580, and "Microfyne." Dixon Nos. 0607 and 6580 are not available at retail, but should cost about 13 cents per pound wholesale. The "Microfyne" grade is said to be available in hardware stores and machinery supply houses at about 50 cents per pound.

"8. The pulverized graphite may be added at the time of treating the seed at the rate of 1½ ounces per bushel. If any grower wishes to make the seed flow even more smoothly, he can use up to 2 ounces per bushel. It would not be desirable to purchase red copper oxide and graphite already mixed, because the purchaser could not be sure of the purity of the red copper oxide.

"9. Graphite being chemically inert does not affect the beneficial action of the red copper oxide nor the germination of the peas, except possibly its oiliness may delay a trifle the swelling of the seed with water.

"10. Water sprayed onto treated seed as it is dumped into the drill box at the rate of about 5 tablespoonfuls per bushel also will lubricate the seed sufficiently to let it pass through the drill. Water must never be sprayed on ahead of time, however, as it will soak into the seeds and make them more difficult instead of less difficult to drill. Graphite is much to be preferred to water.

"11. Mica, talcum, and carbon black are of no value as lubricants for treated seed."

Copies of Bulletin No. 660, in which experiments on graphite are reported in detail, may be obtained from the New York State Agricultural Experiment Station, Geneva, N. Y.

Surplus Farm Products Available for Relief

More than 37,100,000 pounds of foodstuffs including canned meat, flour, cereals, vegetables and fruits—surplus farm products made available for relief distribution by the Federal Surplus Commodities Corporation—now are in flood-stricken states ready for distribution to flood victims, according to the A.A.A. Division of Marketing and Marketing Agreements.

In addition, more than 1,080,000 items of clothing and bedding made in the Works Progress Administration projects and donated to the Federal Surplus Commodities Corporation for relief use, are available for flood relief distribution.

"Regulations 90" Sent to All Members

Copies of "Regulations 90 Relating to the Excise Tax on Employers under Title IX of the Social Security Act," issued by the Internal Revenue Bureau, are being mailed to all members of the Association. Additional copies can be purchased from the Superintendent of Documents, Government Printing Office, Washington, at 10 cents each. Remittance for the purchase of publications from the Superintendent of Documents, Government Printing Office, should be made in cash or money order as postage stamps are not accepted.

It is suggested that all members file the copy of Regulations 90 with the Social Security Program pamphlet issued last January by the Association. These two publications will be referred to from time to time in articles that will appear in the INFORMATION LETTER.

Production and Purchase of Golden Cross Bantam Seed

At the canners' school recently held at the New York Agricultural Experiment Station at Geneva, recommendations as to the production and purchase of Golden Cross Bantam seed were presented by Glenn M. Smith, originator of Golden Cross Bantam, who took part in the conferences arranged by the Association's Raw Products Research Bureau at the last annual convention. Mr. Smith's recommendations may be summarized as follows:

The producer should:

1. Procure a small stock of pure line seed each year.

2. Multiply seed stocks in isolated fields. Seed from pollen rows not to be used except in cases of emergency.

3. Arrange for inspection of multiplication fields during the growing season.

4. Thoroughly rogue multiplication and detasseling fields and practice careful selection of ear types.

5. Supply seed of inbred strains for direct comparison each year.

The purchasers of hybrid seed should:

1. Contract for seed one year ahead of requirement. This gives him an opportunity to inspect detasseling fields.

2. Require a statement from the producer as to the performance of inbred stocks in direct comparisons.

3. Supply an adequate sample of hybrid seed for trials by State Experiment Station.

State Experiment Stations should:

1. Compare various lots of the hybrid seed offered for sale in those states. These samples should be obtained from those growers who have purchased from producers. These comparisons should be labeled with the name of producer and purchaser.

2. Conduct comparisons of inbred lines for producers in that state, using samples from Purdue as checks.

The United States Department of Agriculture and Purdue Agricultural Experiment Station should:

1. Maintain an adequate source of pure seed stocks to supply producers in small quantities.

2. Continue comparisons of inbred lines in 1936 using a code as in 1935.

Figures on the volume of seed of Golden Cross Bantam announced by Mr. Smith show how rapidly this hybrid has gained in popularity in the canning industry. In 1932, the

year the inbreds were released, there were 90,000 pounds of Golden Cross Bantam seed produced; in 1933, 250,000 pounds; in 1934, 600,000 to 700,000 pounds, and in 1935 a million pounds or over. Mr. Smith said that his own estimates indicated something over a million pounds, but that he had been told by well informed persons in the trade, that there was possibly a million and a half to two million pounds total production.

Australian Canned Fruit Exports

Exports of canned apricots, peaches, pears, pineapple and fruit salad from Australia in 1935 amounted to the equivalent of 2,483,201 dozen of 30-ounce cans, according to the American trade commissioner at Sydney. The exports to the United Kingdom and to all other countries were as follows:

	United Kingdom *Dozens*	Other Countries *Dozens*	Total *Dozens*
Apricots	305,731	60,570	366,301
Peaches	1,128,943	185,461	1,314,404
Pears	630,434	31,392	661,826
Pineapples	79,079	40,443	119,522
Fruit salad	14,688	6,460	21,148
Total	2,158,875	324,326	2,483,201

Of the exports to "other countries," 178,864 dozen cans were shipped to Canada.

Japanese Canned Crab Meat Exports

According to the Japan Tinned Crab Meat Association the total tinned crab meat pack during 1935 was 424,677 cases, against 461,693 cases in 1934, a decline of 8 per cent. In spite of the decline in production, the 1935 exports of 434,726 cases showed an increase of 31 per cent over 1934, indicating heavy shipments from old stocks. The 1934 exports totaled 330,442 cases.

According to the Japanese Association's figures, exports of canned crab meat to the United States during 1935 amounted to 225,912 cases, while exports to Great Britain were 155,962 cases. Shipments to the United States and to Great Britain represented 87 per cent of the total exports.

Limit Set on Tuna Exports to United States

The directors of the Japan Tinned Tuna Fish Association have announced that during 1936 shipments of canned tuna to the United States will be limited to 350,000 cases as compared with 300,000 cases for 1935. Due to the poor catch, however, the 1935 shipments did not reach the limitation set. It was also agreed to limit shipments to Canada during 1936 to 50,000 cases. For the American market, the 1936 shipments will be of white meat entirely, while for the Canadian market light meat may be substituted for the white meat. This agreement among tuna fish packers will be in force during the year commencing April 1, 1936, and ending on March 31, 1937.

In 1935 Japanese exports of tuna fish in oil totaled 391,917 cases, of which 267,186 cases went to the United States, 27,981 cases to Canada, 37,280 cases to Belgium, 13,797 cases to Malta, and smaller amounts to other countries.

Food Seizure Finding Reversed by Appeals Court

Canners will be interested in the following summary, which appeared in the United States Law Week for March 3rd, of the decision of the U. S. Circuit Court of Appeals for the Third Circuit, holding insufficient the proof presented in a proceeding under the Food and Drugs Act to forfeit canned sardines alleged to be decomposed. The summary states:

In a proceeding by the United States under the Pure Food and Drugs Act to forfeit 350 cartons of canned sardines alleged to be decomposed, the Government had the burden of establishing that the sardines were decomposed by "clear and satisfactory evidence." The lower court erred in instructing the jury that proof by "fair preponderance of the evidence" was sufficient. The proceeding, not only involves the future of the claimant's extensive business, but is a "condemnation of the fish inspection of the State of California."

The proof of the Government did not satisfy such requirement. The claimant is engaged in the catching, curing, canning and sale of sardines at Terminal Island, on the coast of California. It employs six vessels which catch fish in the open waters of the Pacific during the night and bring them in the morning to the shore plant. On the same day the entrails are removed, the heads and tails are cut off, and the fish are cooked in brine and tomato sauce at high temperature and packed and sealed in oil and tomato sauce. The process is subject to continuous inspection by the Department of Fisheries of the State of California.

Each individual fish is examined and packed in the final box by a girl, who throws aside any unfit fish. In this way, the fresh fish, which are never subjected to the sun's rays, are caught and packed in sardine boxes within not to exceed 24 hours. No fish other than those caught by claimant's fishing boats were used in the cartons sought to be forfeited. The boats were clean and the bilge water pumped out after each catch.

By a code of marking enforced by the State of California, every box of sardines had embossed on it a seal or stamp which shows the date such box was sealed, so that the time of catch, the ship making it, and the proofs of the inspectors and ship captains, as well as the delivery thereof to the plant and the subsequent treatment and packing of the fish, can be fixed with certainty.

The reports of the state inspector who inspected the sardines which made up the cartons showed that "the fish were all in excellent condition." The head of a local inspection company, acting on behalf of buyers and brokers throughout the United States, inspected the sardines and found them satisfactory. Other disinterested witnesses testified that the sardines were not decomposed and were fit for food.

The 350 cartons of sardines were shipped by the claimants from California to Pittsburgh. Pursuant to the libel, the cartons were taken in possession by the Government at Pittsburgh on July 20, 1933.

Two officers of the Government testified for it. One of them, a doctor in charge of the Bacteriological Laboratory at Washington, D. C., made an examination of sardine cans on July 18, 1933, at the laboratory. He testified the sardines so examined were decomposed and described them as "rotten." How, when, or where the cans were obtained does not appear, nor is it shown how long the contents were exposed to the atmosphere of the laboratory in midsummer heat of the City of Washington.

The conclusions of both witnesses for the Government were based on the theory of the pre-cooking rottenness of the sardines and the standardization of decomposition. Witnesses for the claimant testified to the contrary.

The most practical and conclusive proof that could have been adduced, namely, opening cans before the jury and allowing them to try the homely but practical test of smelling and tasting the sardines, was not offered by the Government. "The whole situation could have been solved had the contents of the cans been submitted to the jury, who could have, by the sense of smell and taste, determined whether the sardines were fit for food."

Bulletins on Canned Food Pack in 1935

Statistics on the 1935 pack of canned fruits and vegetables, as compiled by the Statistical Division of the National Canners Association, will be issued in two bulletins instead of one as was done last year.

Part I of the statistical report, which is being mailed to member canners this week, contains the statistics for canned vegetables. Part II, which will not be issued until the latter part of April, will contain the fruit statistics. It is impossible to compile the statistics on the fruit packs until about the middle of April because figures for certain sections of the country will not become available until that time.

Production and Stocks of Canned Milk

	1936 *Pounds*	1935 *Pounds*	Change *Per Cent*
Manufacturers' stocks (case goods, March 1):			
Evaporated (35 firms)	45,368,418	28,859,131	+ 57.21
Condensed (8 firms)	3,659,483	5,152,896	— 28.98
Total production, February:			
Evaporated (34 firms)	111,671,733	119,372,878	— 6.45
Condensed (7 firms)	4,211,483	4,901,515	— 14.08

Hutson and Tapp Named Assistant AAA Administrators

Appointment of J. B. Hutson and Jesse W. Tapp as assistant administrators of the Agricultural Adjustment Act, and related acts, has been announced today by Howard R. Tolley, Acting Administrator.

Mr. Hutson is to serve as assistant administrator in carrying out the provisions of Sections 7 to 14 of the Soil Conservation and Domestic Allotment Act. In addition to his general responsibility, Mr. Hutson is director of the Northeast and East Central Division of the AAA, organized to administer the programs in these two regions. He also is in charge of liquidating the production control programs formerly handled by the Division of Tobacco, Sugar, Rice, Peanuts and Potatoes, of which he was head.

Mr. Tapp will have charge of the work involving marketing agreements and orders, activities under Section 32 of the Agricultural Adjustment Act, as amended, surplus removal programs and the Federal Surplus Commodities Corporation.

Study of N.R.A. Accomplishments

The President by Executive Order has created a Committee on Industrial Analysis to complete the summary of the results and accomplishments of the National Recovery Administration and report thereon.

The Committee is headed by Daniel C. Roper, Secretary of Commerce, and includes Henry C. Wallace, Secretary of Agriculture, and Frances Perkins, Secretary of Labor. Other persons outside of the Government subsequently will be appointed to the Committee by the President.

The President has directed the Committee of Industrial Analysis to bring to a conclusion, and to make available to the public, an analysis of the operations of the N.R.A. codes. Members of the Committee, to be appointed from outside the Government, will be asked to prepare a more general and final survey of the administration of Title I of the National Industrial Recovery Act as a whole.

The Executive Order provides, however, "that nothing in this Order shall be construed to authorize the Committee of Industrial Analysis to collect from the general public current statistical information, or to duplicate the statistical work now being performed by any existing agency of Government."

Fruit and Vegetable Market Competition

Carlot Shipments as Reported by the Bureau of Agricultural Economics, Department of Agriculture

Commodity	Week ending Mar. 21 1935	Week ending Mar. 21 1936	Week ending Mar. 14 1936	Total for season through Mar. 21 1935	Total for season through Mar. 21 1936
Vegetables:					
Beans, snap and lima	3,958	124	187	4,294	3,958
Tomatoes	498	389	379	3,850	4,487
Green peas	67	85	145	1,538	1,671
Spinach	209	345	395	3,837	5,475
Others:					
Domestic competing directly	3,980	5,110	4,618	142,950	131,238
Imports—					
Competing directly	61	49	81	587	889
Competing indirectly	19	33	59	1,015	1,752
Fruits:					
Citrus, domestic	3,022	3,379	3,043	67,215	61,770
Imports	1	11	1	241	409
Others, domestic	123	178	129	18,098	15,369

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